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The Balance, AND COLUMBIAN REPOSITORY.

"HAIL SACRED POLITY, BY FREEDOM REAR'D!
"HAIL SACRED FREEDOM, WHEN BY LAW RESTRAIN'D!"
BEATTIE.

HUDSON, (NEW-YORK) TUESDAY, APRIL 2, 1805.

Editorial.

[SUBJECT CONCLUDED.]

THE effect of Judge CHASE's anſwer upon his enemies was aſtoniſhing.—Some it convinced....others it confounded. From the moment it was read in the Senate, "the charm diſſolved apace"....the ſcales of juſtice evidently began to incline to the ſide of the accuſed. The friends of the Judge took courage; and thoſe who had reſolved to get rid of him at all events, ſeeing with what rapidity the honeſt of their party deſerted their ranks, and went over to the ſide of innocence, manifeſted their chagrin and diſappointment, by the moſt malevolent and bitter, and, at the ſame time, impotent, raving againſt all, of whatever ſect, who had honeſty and independence enough to oppoſe their ſcheme of perſecution.

In vain, however, did the Virginian Marat, attempt to deſtroy the Judge by a party diviſion. Honeſt men united! Virtue triumphed! The wicked were defeated! ....And THE PEOPLE "WILL REJOICE!"

Amongſt thoſe of the democratic party, who had the firmneſs to act according to the dictates of their conſciences, we obſerve, with ſincere pleaſure, the Senators from this State and Vermont. This augurs well: And we are not yet without hope, that the State of New-York will eventually take a ſtand in the union the moſt commanding, elevated and honorable.

CONSTITUTION-KILLING.

THOROUGH-going, full-blooded democrats, whatever may be their pretenſions, are naturally averſe to written conſtitutions—becauſe thoſe who believe that the life, the liberty, and the property of individuals, ought to be at the diſpoſal of a majority of the whole people, muſt of courſe believe, that ſuch majority does not require the control of a written rule. Men who hold ſuch ideas of government, will not allow that one ſet of men have a right to make a conſtitution which ſhall be binding on the generation that may ſucceed them. Amongſt the party uſually ſtyled democratic in the United States, there are great numbers who adhere to this viſionary notion. In Pennſylvania, particularly, there is an enormous maſs of that ungovernable ſtuff, called democracy. It has uſually been employed by the demagogues of that ſtate, to overbalance ſound principles; and in two inſtances has been ſtirred up to open inſurrection. The leaders of the mob in Pennſylvania, have been able, in ſome meaſure to conceal themſelves, by means of having a moſt convenient ſervant, ſtyled by himſelf, the *Organ of the Public Will*; but with more propriety called the *Tocſin of Inſurgency*. William Duane, editor of the Aurora, has been the oſtenſible dictator; and it is a melancholy truth, that his maſters, thro' him, have, for ſeveral years, ruled the ſtate, by giving a tone and direction to the popular voice. Of late, however, ſober and ſenſible people have been endeavoring to make a ſtand againſt the wild ſpirit of innovation and anarchy which has ever diſtinguiſhed the Pennſylvania mob. They have looked up to the judiciary for protection. The judiciary has conſequently been aſſailed. The conſtitution ſupports the judiciary. Hence ariſes the hatred of the Pennſylvania jacobins towards the conſtitution: And this brings us to the immediate object of this article.

Since the acquittal of the Pennſylvania judges, the Auroraites have come to the deſperate reſolution of deſtroying the conſtitution of that ſtate. The leaders of the faction are circulating petitions among the lower claſſes of people, praying the legiſlature to call a convention to frame a new conſtitution, or to alter the preſent one in ſuch manner as to render the judges dependent on the legiſlature, and to elect the members of both houſes every year. The Aurora advocates the meaſure; and, it is ſaid, vaſt numbers of ſignatures to the petitions are obtained. Theſe proceedings of the jacobins have created ſuch an alarm, that the uſual party diſtinctions are entirely laid aſide. Federaliſm and Democracy, as they formerly ſtood, appear to be forgotten. The federaliſts, generally, and the moſt reſpectable of the oppoſite party, unite under the appellation of *Conſtitutionaliſts*; and the diſorganizing faction are diſtinguiſhed by the name of *Revolutioniſts*.

We have given this haſty ſketch, that the reader may be enabled to underſtand whatever may hereafter appear on this ſubject: And we take this opportunity to remark, that we deem the diſtinction above mentioned, as every way proper to be adopted throughout the United States. It is no longer doubted by any one, that a faction exiſts amongſt us, as hoſtile to the federal conſtitution, as the Auroraites are to the conſtitution of Pennſylvania. It is

alſo evident that, of the party uſually ſtyled democratic, there are many who are ſincere friends to the conſtitution. It is, therefore, high time to bury the ordinary party names in oblivion; and in future, let us divide on one queſtion only....A CONSTITUTION *or* NO CONSTITUTION.

A CONSTITUTIONALIST.

THE following letter from the Hon. James Elliot, to the people of the South-Eaſtern Diſtrict of Vermont, has been on file for publication ſeveral weeks, owing to a great preſs of matter more immediately intereſting. It is now recommended to the attentive peruſal of every reader. It contains facts and principles important to all. Mr. Elliot is an honeſt conſtitutionaliſt. His integrity is unimpeached—his character unqueſtionable. He ranks with the democratic party; but is too independent to follow any leader but his conſcience. Happy would it be for our country if all our legiſlators had ſuch leaders.

WASHINGTON, DEC. 21, 1804.

FELLOW CITIZENS,

I have received information that I am again honored, by a great majority of your ſuffrages, with a ſeat in the national Legiſlature. This election, which had been made in oppoſition to the influence, not only of innumerable falſhoods and ſlanders, but alſo of a caucus of many of your repreſentatives in the General Aſſembly, who liſtened with too great facility to the falſe repreſentations of my intereſted enemies, has excited emotions in my mind which I ſhould in vain endeavour to expreſs.

Almoſt at the moment when the election was commencing, my conſcience dictated to me a diſſent from the articles of impeachment againſt Judge Chaſe, Adopted by a great majority of the friends of the adminiſtration: and as my conduct in that caſe has been repreſented as inconſiſtent, and as the political madneſs of the times, in certain diſtricts, has poiſoned to their ſources the ſtreams of private confidence, I ſhall conſider it my duty hereafter to explain my conduct to my conſtituents through the channel of the newſpapers.

In the courſe of the laſt ſeſſion, Mr. Randolph demanded the appointment of a committee to enquire into the official conduct of Judge Chaſe, without producing a ſingle acuſation againſt him; and although at the time of making the motion, the uſual hour of adjournment was approaching, he made every poſſible effort to prevent an adjournment, and to produce an immediate deciſion upon the queſtion. In this attempt he was diſappointed, but the motion ultimately paſſed by a great majority. It was oppoſed by myſelf and others, from a conviction that it was improper to delegate to a ſecret committee, powers of an inquiſitorial nature, in relation to the conduct of pulic officers, when no ſpecific accuſations were exhibited. The committee, after ſeveral weeks ſpent in laborious examination, reported to the Houſe, almoſt at the cloſe of the ſeſſion, a conſiderable volume of exparte teſtimony, conſiſting in a great meaſure, of the private opinions and ſuſpicions of lawyers, who conſidered themſelves as brow-beaten by the Judge; with this curious evidence, however, were mingled many facts of an important nature. This teſtimony was immediately publiſhed in the newſpapers, contrary to every principle of law and juſtice, and the effect of this publication muſt have been although the intention might have been good, to condemn the Judge in the public mind, before he could have time to prepare his defence. This, however, I do not charge to the account of the committee or the houſe. Even the report of the committee did not preſent any particular charge againſt Mr. Chaſe, to which he could apply his defence; it only recommended an indefinite impeachment for high crimes and mildemeanors, upon the volume of evidence. In this book I diſcovered no ground of impeachment, except in the conduct of the Judge in the trial of Callender, to whom I thought conſtitutional privileges had been denied, and upon that ground alone I voted for the impeachment. My ſpeech on that occaſion was publiſhed in all the newſpapers which have any conſiderable circulation in the diſtrict, and appeared to meet the approbation of a great majority of my conſtituents.—In this crude ſtate, except that articles were reported and not acted on, the impeachment came over to the preſent ſeſſion, early in which the articles were recommitted.—The committee to whom they were referred, without any powers for that purpoſe, made a new enquiry, and reported two new articles. As in this report the conduct of the Judge in Callender's caſe was not conſidered as a violation of the conſtiution, and as I had always been prepared to ſay that if it were not ſuch a violation it ought to be conſidered as a mere error of judgment; as the new articles, in my opinion, were reported without authority, were unſupported by evidence, and were inſignificant in themſelves, and it was impoſſible, to obtain amendments, I was under the neceſſity of voting againſt every article upon the final queſtion.

Theſe proceedings, from firſt to laſt, have appeared to me to conſtitute one of the greateſt ſtrides towards the eſtabliſhment of an ariſtocracy in our country, that we have ever witneſſed. Being in the minority my views of the ſubject will probably be pronounced erroneous. But when I reflect that one of the high crimes for which Judge Chaſe is impeached is neither more nor leſs than the expreſſion of a political opinion, I cannot but tremble, not only for the conſtitutional independence of the judiciary, but for the liberties of the people.

I am accuſed of acting under the influence of paſſion. It is falſe. No member of Congreſs can examine important queſtions, with more attention, or decide upon them with more coolneſs than myſelf.—I am charged with ſelfiſh and ambitious views. This charge is falſe alſo. Had ſuch been my views, as I early ſaw that certain violent and ambitious men, the more dangerous for being honeſt and enthuſiaſtic, poſſeſs an almoſt irreſiſtible influence upon our politics, and believed it probable that the day would come, when they will have in their hand the diſpoſal of the offices and honors of the nation, I ſhould have entered in their train, and might have calculated upon receiving the reward of my ſevility and apoſtacy. But I have choſen to purſue the path of independence and integrity, a path planted thick with thorns, but leading through the dark valley of poverty, to the bright temple of honeſt fame. Again it is ſaid that I do not follow the republican leaders.——This is true; and I never will follow them when I think them wrong. Legiſlators ought to have no leaders; we muſt not be led at all, or we muſt be led to deſtruction. Whatever opinion the world may entertain of my diſcernment, the people have told me, by their ſuffrages, that I am not to conſider myſelf as ſtanding on inferior ground to other members; & I ſhould be a traitor to their dignity, as well as to their intereſts, were I to acknowledge any leader.—Were I doomed thus to diſgrace my conſtituents, I ſhould at leaſt aſk permiſſion to wait till men of ſolid talents and correct principles were elevated to the rank of Congreſſional commanders. The doctrine, that legiſlators are to be diſciplined like ſoldiers, and that we ought to ſupport our party when we think it wrong, is anti-republican, immoral, irreligious, and deteſtable.

My principles remain unaltered. They never can be changed. Whoever ſhall hereafter govern our country, I ſhall ſupport the general ſyſtem of their adminiſtration, as ſuch, and not as a party, ſo far as I ſhall in conſcience deem their meaſures promotive to the public good and of conſtitutional liberty.

I am preparing for publication, at the cloſe of the preſent ſeſſion, a courſe of letters to my conſtituents, embracing a full view of my congreſſional conduct,

and of the political ſtate and proſpect of the nation.

JAMES ELLIOT.

Selected.

FROM THE CONNECTICUT COURANT.

An attempt to explain "Ægis."

IN Mr. Jefferſon's ſecond Inaugural Speech, which it was hoped would be more intelligible than his firſt, we are told, that "the aboriginals of theſe countries (meaning probably the *Indians* of *this* country) "are covered by the *Ægis* of the law."

The increaſe of political notions of late years, doubtleſs apologiſes for the coining of new terms and phraſes to expreſs them by; but then, ſome notice ſhould be given, what theſe new terms and phraſes are intended to ſtand for; as there is yet a part of the community who find it hard to believe and applaud what they do not underſtand. It may be learned from its connection indeed, that this ſtrange word *Ægis*, means ſomething different from the law itſelf, the ordinary inſtrument of protection; alſo that it means ſomething that has relation to the law; and furthermore, that it means ſomething that can cover Indians; but what this ſomething is, whether it be the ſcabbard of the law, in which many place ſafety; or the ſword of the law, or which amounts to the ſame thing, the Executor of the law, the Preſident, we do not thence learn. Nor is any light attainable from Johnſon's dictionary, the ſtandard of the Engliſh language. In ſhort, *Ægis* is a Latin word, or rather a latinization, of the Greek word *Aix*, which ſignifies a ſhe-goat. Is it then the ſhe-goat of the law that covers the Indians? A ſhe-goat cannot ſurely be emblematical of the Executive Chief, for the ſex is wrong. And even if we ſhould take the liberty to change the ſex, and read he-goat, the emblem would be no fitter, for ſtill the goat will be a ſilly animal, and alſo wear a long beard; and as to covering by way of protection, he is the firſt to flee to the mountain upon the approach of an enemy. No, neither ſhe-goat nor he-goat can be the true reading here. We muſt therefore drop the literal ſenſe, and ſeek for a metaphorical one: which is to be found in the genealogy of the gods—thoſe twenty gods, more or leſs, which appear in Mr. Jefferſon's Notes on Virginia; and which he ſuppoſes a man may as well believe in as to believe in one God, as to any effect it can have upon his conduct.

The goat Amalthea, which had ſuckled Jove, being dead, that god is ſaid to have covered his buckler with the ſkin thereof; whence the appellation *Ægis* from AIX, AIGOS, *ſhe-goat*. Jupiter, afterwards reſtoring the beaſt to life again, covered it with a new ſkin, and placed it among the ſtars. As to his buckler, he made a preſent of it to Minerva: whence that goddeſs' buckler is alſo called *Ægis*. From this fountain then, of hidden treaſure, we have the thing ſought for. And it appears to be *Jupiter's* buckler that covers the Indians; for *Ægis* never ſignified, or had reaſon to ſignify any buckler but this—afterwards given to Miverna. We can get no further, unleſs, by a bold figure of ſpeech, we ſubſtitute the Preſident for jupiter, or for Minerva, if Wiſdom ſhould ſuit better than Thunder, in which caſe it will be the *Preſident's* buckler that covers the Indians.—To talk of having got Jupiter's buckler on to the *Law*, is a jumble of ſacrilege and nonſenſe, ſufferable only when a Philoſophiſt pronounces to the admiring multititude, his own eulogy.

Editor's Closet.

BRIBERY.

While the bill for incorporating the Merchant's Bank was pending in the Assembly, the democrats who were opposed to it, made the unqualified declaration, that, "*no republican would vote for it unless he had been bribed;*" and great pains have been taken to prove that it owed its final success to corruption. We are not inclined to say, at present, whether we believe this or not: But, admitting for a moment that it is true, how does the account stand? The house of Assembly is democratic, with an exception of only twelve members. The bill abovementioned passed by a majority of twelve, the federalists all voting in favor of it. According to this curious logic, then, precisely one half of the democratic members had been bribed. Lord help us! if this be true, what are we coming to?

We learn, with great pleasure, that Dr. Park, Editor of the Boston Repertory, has now in his possession, the celebrated letters of Jefferson to Callender, concerning the infamous work, called "*The Prospect before Us.*" Correct copies of these letters are published in the *Repertory*; and it is our intention to give them a place in the *Balance* at some future day. While such documents exist, it is cruel in Mr Jefferson's advocates, to provoke an investigation of his moral character.

To such a low pitch of degradation have the democrats of New-Hampshire fallen, that at their late St. Jefferson's festival, they toasted 'Negro Voters.' A toast very fit and proper for such an occasion.

REFORMATION.

Mr. Jefferson lately left the city of Washington for Monticello on Thursday, instead of his usual starting day, *Sunday!*

WISDOM AND WINE.

We find, in the Newark Centinel, a string of toasts, said to have been drank by a set of democrats, who had assembled to celebrate Mr. Jefferson's second election to the presidency. The originality and extreme 'cuteness of some of these toasts, induces us to copy them for the amusement of our readers.

"Thomas Jefferson—may he continue in his liberal and patriotic exertions, through the *succeeding* four years *to come*."

"Both houses of Congress—May they deserve well *of their country's good and security*."

What in the name of wonder does that mean!

"The acquisition of the territory of Louisiana—May it comport with our *desired wishes*, and be a lasting monument for future ages."

What sort of things are *desired wishes*? That the acquisition of Louisiana will be a lasting monument *—of folly*, no one can doubt.

It appears, by the following toast, that neither the assembled democrats, nor the Centinel printer had heard of Washington's death; for they express great solicitude, lest he should commit errors:—

"George Washington—May his past virtues never be destoyed by his errors."

But the last toast is the most musical in the set.

"May each and every one *set* under his *own vine* or shade, and no one to say why art thou afraid."

The editor of the Norfolk Ledger, thus introduces the motions of the Congressional revolutionists for destroying the Constitution of the United States:—

"*They rage, reform, and madden round the land.*"

"If any man has thought that we, as well as the great majority of Federalists, have been wrong, in asserting that the motives of Mr. Randolph and his coadjutors, in the late prosecution of Judge Chase, were neither more nor less than the ardent wish entertained by their party to destroy the independence of the Judiciary, and through this branch of the government, to destroy the Constitution of the United States in one of its most valuable provisions, let such person read the following proposed changes in the Constitution. It was found by *General Randolph* that this fortress of liberty was not to be taken by *Sap*; he has therefore determined to proceed with a regular and open siege; and, as a practicable breach has already been made, he has disposed his forces and prepared for a regular attack: the outworks are so much injured, and the defending garrison so weak, there is but little hope of the citadel holding out for any length of time.—At what point the rancor of the enemy may stop, it is impossible to conjecture: there is however too much reason to fear that it will extend to universal destruction: and, even in our day, the traveller, when passing over the sacred spot may, while meditating upon the scene of desolation, say "*here stood the Constitution of the United States.*

The following paragraphs are extracted from the New England Palladium.

Advice.—Read thoſe paragraphs of the late Inaugural Speech which reſpect the freedom of the preſs—then Callender's "*Proſpect*"—and next Mr. Jefferſon's letters to Callender.

JOHN LANGDON, Eſq. is elected Governor of *New-Hampſhire*—and the 11th of April next is appointed as a day of humiliation, faſting and prayer in that Sate!

Judge Chase.

In the Senate of the United States,

SITTING AS A

High Court of Impeachment,

ON THE

Fourth day of February, A. D. 1805.

UNITED STATES vs. SAMUEL CHASE.

The anſwer, and pleas of SAMUEL CHASE, *one of the Aſſociate Juſtices of the Supreme Court of the United States, to the articles of impeachment, exhibited againſt him in the ſaid Court, by the honorable, the Houſe of Repreſentatives of the United States, in ſupport of their impeachment, againſt him, for high crimes and miſdemeanors, ſuppoſed to have been by him committed.*

[CONCLUDED.]

THE eighth article of impeachment charges, that this reſpondent, "diſregarding the duties and dignity of his official character did, at a circuit court for the diſtrict of Maryland, held at Baltimore, in the month of May, 1803, pervert his official right and duty to addreſs the grand jury then and there aſſembled, on the matters coming within the province of the ſaid jury, for the purpoſe of delivering to the ſaid grand jury an intemperate and inflamatory political harrangue, with intent to excite the fears and reſentment of the ſaid grand jury, and of the good people of Maryland, againſt their State government and conſtitution," and alſo, that this reſpondent, "under pretence of exerciſing his judicial right to addreſs the grand jury as aforeſaid, did endeavor to excite the odium of the ſaid grand jury, and of the good people of Maryland, againſt the government of the United States, by delivering opinions, which were, at that time, and as delivered by him, highly indecent, extra judicial, and tending to proſtitute the high judicial character, with which he was inveſted, to the low purpoſe of an electioneering partizan."

In anſwer to this charge this reſpondent admits, that he did, as one of the aſſociate juſtices of the ſupreme court of the United States, preſide in a circuit court held at Baltimore, in and for the diſtrict of Maryland, in May, 1803, and did then deliver a charge to the grand jury, and expreſs in the concluſion of it ſome opinions as to certain public meaſures, both of the goverment of Maryland and of that of the United States. But he denies that in thus acting, he diſregarded the duties and dignity of his judicial character, perverted his official right and duty to addreſs the grand jury, or had any intention to excite the fears or reſentment of any perſon whatever, againſt the government and conſtitution of the United States, or of Maryland. He denies that the ſentiments, which he thus expreſſed, were "intemperate and inflamatory," either in themſelves or in the manner of delivering them; that he did endeavor to excite the odium of any perſon whatever, againſt the government of the United States, or did deliver any opinions which were, in any reſpect indecent, or which had any tendency to proſtitute his judicial character, to any low or improper purpoſe. He denies that he did any thing that was unuſual, improper, or unbecoming in a judge, or expreſſed any opinions but ſuch as a friend to his country, and a firm ſupporter of the governments, both of the State of Maryland and of the United States, might entertain. For the truth of what he here ſays, he appeals confidently to the charge itſelf; which was read from a written paper now in his poſſeſſion, ready to be produced. A true copy of all ſuch parts of this paper as relate to the ſubject matter of this article of impeachment, is contained in the exhibit, marked No. 8, which he prays leave to make part of this his anſwer. That part of it which relates to the article now under conſideration is in theſe words:—"You know, gentlemen, that our State and national inſtitutions were made to ſecure to every member of the ſociety *equal* liberty and *equal* rights; but the late alteration of the federal judiciary, by the abolition of the office of the ſixteen circuit judges, and the *recent* change in our State conſtitution by the eſtabliſhing *univerſal* ſuffrage, *and* the further alteration that is contemplated in our State judiciary, (if adopted) will, in my judgment, take away *all ſecurity for property and perſonal liberty*. The independence of the national judiciary is already ſhaken to its foundation; and the virtue of the people alone can reſtore it. The independence of the judges of this State will be entirely deſtroyed, if the bill for the abolition of the two ſupreme courts ſhould be ratified by the next general aſſembly. The change of the State conſtitution by allowing univerſal ſuffrage, will, in my opinion, certainly and rapidly deſtroy all protection to property, and all ſecurity to perſonal liberty; and our republican conſtitution will ſink into a *mobocracy*, the worſt of all poſſible governments.

"I can only lament that the *main pillar* of our State conſtitution has been thrown down, by the eſtabliſhment of *univerſal ſuffrage*. By this ſhock *alone*, the whole building totters to its baſe, and will crumble into ruins, before *many* years elapſe, unleſs it be *reſtored* to its original ſtate. If the independency of your State judges, which your bill of rights wiſely declares "to be eſſential to the impartial adminiſtration of juſtice, and the great ſecurity to the rights & libertics of the people," ſhall be taken away, by the ratification of the bill paſſed for that purpoſe, it will precipitate the deſtruction of your whole State conſtitution, and there will be nothing left in it, worthy the care or ſupport of freemen."

Admitting theſe opinions to have been incorrect and unfounded, this reſpondent denies that there was any law which forbid him to expreſs them, in a charge to a grand jury; and he contends that there can be no offence, without the breach of ſome law. The very eſſence of deſpotiſm conſiſts, in puniſhing acts, which, at the time when they were done, were forbidden by no law. Admitting the expreſſion of political opinions by a judge, in his charge to a jury, to be improper and dangerous; there are many improper and very dangerous acts, which not being forbidden by laws cannot be puniſhed. Hence the neceſſity of new penal laws; which are from time to time enacted for the prevention of acts not before forbidden, but found by experience to be of dangerous tendency. It has been the practice, in this country, ever ſince the revolution, which ſeparated us from Great Britain, for the judges to expreſs from the bench, by way of charge to the grand jury, and to enforce to the utmoſt of their ability, ſuch political opinions as they thought correct and uſeful. There have been inſtances in which the legiſlative bodies of this country, have recommended this practice to the judges; and it was adopted by the judges of the ſupreme court of the United States, as ſoon as the preſent judicial ſyſtem was eſtabliſhed. If the legiſlature of the United States conſidered this practice as miſchievous, dangerous, or liable to abuſe, they might have forbidden it by law; to the penalties of which, ſuch judges as might afterwards, trangreſs it, would be juſtly ſubjected. By not forbidding it, the legiſlature has given to it an implied ſanction; and for that Legiſlature to puniſh it now by an impeachment, would be to convert into crime by an ex poſt facto proceeding, an act, which, when it was done, and at all times, before, they had themſelves virtually declared to be innocent. Such conduct would be utterly ſubverſive of the fundamental principles on which free governments reſt; and would form a precedent for the moſt ſanguinary and arbitrary perſecutions, under the forms of law.

Nor can the incorrectneſs of the political opinions thus expreſſed, have any influence in deciding on the guilt or innocence of a judge's conduct in expreſſing them. For if he ſhould be conſidered as guilty or innocent, according to the ſuppoſed correctneſs or incorrectneſs of the opinion, thus expreſſed by him, it would follow, that error in political opinion, however honeſtly entertained, might be a crime; and that a party in power might,

under this pretext, deſtroy any judge, who might happen in a charge to a grand jury, to ſay ſomething capable of being conſtrued by them, into a political opinion adverſe to their own ſyſtem.

There might be ſome pretence for ſaying, that for a judge to utter ſeditious ſentiments, with intent to excite ſedition, would be an impeachable offence: although ſuch a doctrine would be liable to the moſt dangerous abuſe; and is hoſtile to the fundamental principles of our conſtitution, and to the beſt eſtabliſhed maxims of our criminal juriſprudence. But admitting this doctrine to be correct, it cannot be denied that the ſeditious intentions muſt be proved clearly, either by the moſt neceſſary implication from the words themſelves, or by ſome overt acts of a ſeditious nature connected with them. In the preſent caſe no ſuch acts are alledged, but the proof of a ſeditious intent muſt reſt on the words themſelves. By this rule this reſpondent is willing to be judged. Let the opinions which he delivered be examined; and if the members of this honorable court can lay their hands on their hearts, in the preſence of God, and ſay, that theſe opinions are not only erroneous but ſeditious alſo; and carry with them internal evidence of an intention in this reſpondent to excite ſedition, either againſt the State or general government, he is content to be found guilty.

In making this examination let it be borne in mind, that to oppoſe a depending meaſure, by endeavoring to convince the public that it is improper and ought not to be adopted; or to promote the repeal of a law already paſt, be endeavoring to convince the public, that it ought to be repealed, and that ſuch men ought to be elected to the legiſlature as will repeal it, to attempt in fine, the correction of public meaſures, by arguments tending to ſhew their improper nature, or deſtructive tendency; never has been or can be conſidered as ſedition, in any country, where the principles of law and liberty are reſpected; but is the proper and uſual exerciſe of that right of opinion and ſpeech, which conſtitutes the diſtinguiſhing feature of a free government. The abuſe of this privilege, by writing & publiſhing as facts, malicious falſhoods, with intent to defame, is puniſhable as libellous, in the courts having juriſdiction of ſuch offences; where the truth or falſhood of the facts alledged, and the malice or correctneſs of the intention, form the criterion of guilt and innocence. But the character of libellous, much leſs of ſeditious, has never been applied to the expreſſion of opinions concerning the tendency of public meaſures, or to arguments urged for the purpoſe of oppoſing them, or effecting their repeal. To apply the doctrine of ſedition or of libels to ſuch caſes, would inſtantly deſtroy all liberty of ſpeech, ſubvert the main pillars of free government, and convert the tribunals of juſtice into engines of party vengeance. To condemn a public meaſure, therefore, as pernicious in its tendency; to uſe arguments for proving it to be ſo; and to endeavour by theſe means to prevent its adoption, if ſtill depending, or to procure its repeal in a regular and conſtitutional way, if it be already adopted; can never be conſidered as ſedition, or in any way illegal.

The firſt opinion expreſſed to the grand jury on the occaſion in queſtion, by this reſpondent, was that "the late alteration of the federal judiciary, by the abolition of the office of the ſixteen circuit judges; and the recent change in our State conſtitution, by eſtabliſhing univerſal ſuffrage; and the further alteration that was then contemplated in our State judiciary, if adopted;" would in the judgment of this reſpondent, "take away all ſecurity for property and perſonal liberty." That is, "theſe three meaſures, if the laſt of them, which is ſtill depending, ſhould be adopted, will, in my opinion, form a ſyſtem whoſe pernicious tendency, muſt be, to take away the ſecurity for our property and our perſonal liberty, which we have hitherto derived from the ſalutary reſtrictions, laid by the authors of our conſtitutions on the right of ſuffrage, and from the preſent conſtitution of our courts of juſtice." What is this but an argument to perſuade the people of Maryland to reject the alterations in their State judiciary, which were then propoſed; which this reſpondent as a citizen of that State had a right to oppoſe; and the adoption of which depended on a legiſlature then to be choſen? If this be ſedition, then will it be impoſſible to expreſs an opinion oppoſite to the views of the ruling party of the moment, or to oppoſe any of their meaſures by argument, without becoming ſubject to ſuch puniſhment as they may think proper to inflict.

The next opinion is, that "the independence of the national judiciary was already ſhaken to its foundation, and that the virtue of the people alone could reſtore it." In other words, "The act of Congreſs, for repealing the late circuit court law, and vacating thereby the offices of the judges, has ſhaken to its foundation the independence of the national judiciary, and nothing but a change in the repreſentation of Congreſs, which the return of the people to correct ſentiments alone can effect, will be ſufficient to produce a repeal of this act, and thereby reſtore to its former vigour, the part of the federal conſtitution, which has been thus impaired.

This is the obvious meaning of the expreſſion; and it amounts to nothing more than an argument in favor of that change, which this reſpondent then thought and ſtill thinks to be very deſirable; an argument, the force of which as a patriot he might feel, and which as a free man he had a right to advance.

The next opinion is that "the independence of the judges of Maryland, would be entirely deſtroyed if the bill for aboliſhing the ſupreme courts ſhould be ratified by the next general aſſembly"—This opinion, however incorrect it may be, ſeems to have been adopted by the people of Maryland, to whom this argument againſt the bill in queſtion was addreſſed: for at the next ſeſſion of the legiſlature this bill, which went to change entirely the conſtitutional tenure of judicial offices in the ſtate, and to render the ſubſiſtence of the judges dependent on the legiſlature, and their continuance in office on the executive, was abandoned by common conſent.

All the other opinions expreſſed by this reſpondent, as above mentioned, bear the ſame character with thoſe already conſidered. They are arguments addreſſed to the people of Maryland for the purpoſe of diſſuading them from the adoption of a meaſure then depending; and of inducing them, if poſſible, to reſtore to its original ſtate, that part of their conſtitution relating to the right of ſuffrage, by a repeal of the law which had been made for its alteration.

Such were the objects of this reſpondent in delivering thoſe opinions, and he contends that they were fair, proper and legal objects, and that he had a right to purſue them in this way: a right ſanctioned by the univerſal practice of this country, and by the acquieſcence of its various legiſlative authorities. Such he contends, is the true and obvious meaning of the opinions which he delivered, and which he believes to be correct. It is now neceſſary to enquire into their correctneſs; but, if incorrect, he denies that they contain any thing ſeditious, or any evidence of thoſe improper intentions which are imputed to him by this article of impeachment.—He denies that in delivering them to the grand jury, he committed any offence, infringed any law, or did any thing unuſual, or heretofore conſidered in this country as improper or unbecoming in a judge. If this article of impeachment can be ſuſtained on theſe grounds, the liberty of ſpeech on national concerns, and the tenure of the judicial office under the government of the United States, muſt hereafter depend on the arbitrary will of the Houſe of Repreſentatives and the Senate, to be declared on impeachment, after the acts are done, which it may at any time be thought neceſſary to treat as high crimes and miſdemeanors.

And the ſaid Samuel Chaſe, for plea to the ſaid eighth article of impeachment, ſaith, that he is not guilty of any high crime and miſdemeanor, as in and by the ſaid eighth article is alledged againſt him, and this he prays may be inquired of by this honorable court, in ſuch manner as law and juſtice ſhall ſeem to them to require.

THIS RESPONDENT has now laid before this honourable court, as well as the time allowed him would permit, all the circumſtances, of his caſe, with an humble truſt in providence, and a conſciouſneſs that he has diſcharged all his *official* duties with juſtice and impartiality, to the beſt of his knowledge and abilities: and, that intentionally he hath committed no crime or miſdemeanor, or any violation of the conſtitution or laws of his country. Confiding in the impartiality, independence, and integrity, of his judges, and that he will patiently hear, and conſcientiouſly determine this caſe, without being influenced by the ſpirit of party, by popular prejudice, or political motives, he cheerfully ſubmits himſelf to their deciſion.

If it ſhall appear to this honorable court, from the evidence produced, that he hath acted in his *judicial* character with wilful injuſtice or partiality, he doth not wiſh any favour; but expects that the whole extent of the puniſhment permitted in the conſtitution will be inflicted upon him.

If any part of his official conduct ſhall appear to this honorable court, *ſtricti juris*, to have been *illegal*, but to have proceeded from *ignorance* or *error* in judgment; or if any part of his conduct ſhall appear, although not illegal, to have been irregular or improper, but not to have flown from a depravity of heart, or any unworthy motive, he feels confident that this court will make allowance for the imperfections and frailties incidental to man.

He is ſatisfied, that every menmber of this tribunal will obſerve the principles of humanity and juſtice, and will preſume him innocent, until his guilt ſhall be eſtabliſhed by legal and credible witneſſes, and will be governed in his deciſion, by the moral and chriſtian rule of rendering that juſtice to this reſpondent, which he would wiſh to receive.

This reſpondent now ſtands not merely before an earthly tribunal, but alſo before that awful Being whoſe preſence fills all ſpace, and whoſe all-ſeeing eye more eſpecially ſurveys the temples of juſtice and religion. In a little time, his accuſers, his judges, and himſelf, muſt appear at the bar of omnipotence, where the ſecrets of all hearts ſhall be diſcloſed, and every human being ſhall anſwer for his deeds done in the body, and ſhall be compelled to give evidence againſt himſelf, in the preſence of an aſſembled univerſe. To his Omniſcient Judge, at that awful hour, he now appeals for the rectitude and purity of his conduct, as to all the matters of which he is this day accuſed.

He hath now only to adjure each member of this honorable court, by the living GOD, and in his holy name, to render impartial juſtice to him, according to the conſtitution and laws of the United States. He makes this ſolemn demand of each member, by all his hopes of happineſs in the world to come, which he will have voluntarily renounced by the oath he has taken, if he willfully do this reſpondent injuſtice, or diſregard the conſtitution or laws of the United States, which he has ſolemnly ſworn to make the rule and ſtandard of his judgment and deciſion.

SAMUEL CHASE.

A True Copy, ATTEST,
SAMUEL A. OTIS, SECRETARY.

Be it our weekly task,
To note the passing tidings of the times.

Hudson, *April 2*,

SOMETHING NEW!

☞ THE citizens of Hudſon are this day to witneſs a rare ſcene.....a city election without conteſt! We mention this as a proof of the conciliatory diſpoſition of the federaliſts, who, although they have a clear majority in the city, have yielded up to their political opponents a majority of the offices.

A reſolution has paſſed the Senate of this State, (by what majority we do not learn) directing the Attorney-General to commence a proſecution againſt James Cheetham, editor of the American Citizen, for his indecorous remarks on the proceedings of that body.

BEWARE OF QUACKS!!

THE following particulars relative to the trial of John Johnſon, for an indictment of Murder, is communicated to us by a gentleman who attended the court. We hope it may inſtruct the credulous, and form a leſſon for thoſe who are too often employing ſuch vile impoſters of phyſic, who are continually ranſacking the country, "ſeeking whom they may devour."

At the laſt February term of the ſupreme court of this State, holden at Manchester, in the county of Bennington, came on the trial of *John Johnſon*, who was indicted for the Murder of Miſs EVERTS, a young girl of Sunderland, in ſaid county.—The evidence given againſt the priſoner, on the part of the State, was in ſubſtance, That the ſaid Johnſon had ſet himſelf up in the vicinity as a cancer Doctor, and pretended that he had performed miraculous cures in that and many other diſorders. The parents of the deceaſed hearing of his *fame* ſent for him to call and ſee their daughter, a girl of about 18 years of age, who had been delirious for ſome time, ſo that they were obliged to confine her. Upon the ſaid Johnſon's calling on her parents they inquired of him whether he could cure their daughter?—He ſaid he could moſt certainly cure her—that he had cured many perſons, apparently in the ſame ſituation. He was then enquired of where he had acquired this great ſkill above all other Doctors? He ſaid he had read a great many German authors and had acquired much knowledge, and had got much information from the native Indians, he tho't more from the Indians than any other quarter. He then obſerved that ſhe muſt be put to ſleep, or *laid* as he expreſſed it. The mother fearful he was about to adminiſter opium, ſaid, I fear you are about to give my daughter opium. The reſpondent anſwered he would not give her opium. He ſaid he had an Indian root, which put in rum would ſoon *lay her*, and *break the charm*, and when ſhe awaked ſhe would be perfectly well. He then went away to a neighbor's houſe, to prepare his medicine, where he was ſeen to put a large quantity of opium into water, the quantity could not be accurately aſcertained, but the witneſs ſaid he ſhould judge enough to kill three perſons. He returned to his patient again after looking attentively thro' the Almanack, and the ſigns in particular, he obſerved, that it was as good a time to adminiſter his medicine that day as any, but it would take double the quantity of rum to lay her that day to what it would the next. He then had nearly a quart of rum, and a ſmall veſſel given him to put in and mix his medicine; with which he went to the room where the girl was confined and obſerved that he muſt be alone with her and muſt not be diſturbed till he had laid her.

After he had been alone with the girl about half an hour the mother and a ſon went to liſten, being anxious to know what was going on in the room, heard nothing but the girl ſay get away, which the witneſs ſaid was a common expreſſion to the family if any of them only ſpoke to her—they ſoon returned. The mother being very uneaſy, went and opened the door, found the reſpondent near it, her daughter being apparently lifeleſs on the floor, in a moiſt ſweat. She was ſoon taken up, dreſſed in

another apparel and put into bed, which was about 3 o'clock, P. M. The Doctor obſerved that he muſt have ſomething to drink, for he had had a very hard time of it in *laying her*, and the rum which he had taken in the room with him was gone.—The girl appeared ſtill to be nearly expiring, which alarmed the family. But the Doctor aſſured them ſhe would ſoon awake and be perfectly well. The girl remained in this ſituation until about one or two o'clock at night, the family being in bed except the mother, the Doctor propoſed to go to bed to the daughter, and obſerved it was neceſſary,—and that they being alone, it would not be known (or words to that import.) The Doctor immmediately ſprung into bed, put his arm around the girl, turned her face towards him—ſhe ſoon puked on the doctor, when he immediately quit the bed. The girl expired in a few minutes.

There was ſtrong ſuſpicion entertained that the Doctor was guilty of obſcene conduct while alone with the girl. But there was not evidence ſufficient to ſatisfy the jury of that fact.—

The Jury after retiring about three hours found Johnſon not guilty of murder but *guilty of Manſlaughter*.

The court ſentenced him to receive *thirty nine ſtripes, to ſtand in the pillory one hour, to pay coſt, and ſtand committed until ſentence was complied with.*

[*Rutland Herald*]

The Courts of Oyer and Terminer and General Gaol Delivery, in and for the county of Bergen, (N. J.) will be held on Tueſday next.—Rumour ſays, that Aaron Burr, Eſq, the late Vice Preſident, will attend to traverſe his indictment. Indeed it is believed to be reduced to a certainty. This queſtion, which has for ſome time paſt given riſe to conſiderable diſcuſſion, will ſoon, in all probability be put to reſt.

[*Hackenſack paper.*]

Captain Churnſide, of the brig Venus, arrived at Charleſton in 7 days from the Havannah, ſays that on the 8th inſtant, in lat. 28, he was boarded by the Britiſh Letter of Marque ſhip Allen, Capt Ready, 17 days from Montego Bay, (Jam.) who informed that orders had been given by the Admiral on that ſtation, cloſely to blockade the port of Havannah, and that no veſſels whatever be permitted to enter.

[*Mercantile Adv.*]

A late fire at Kingſton, Ulſter county, threatened deſtruction to the whole village, but was fortuunately extinguiſhed, after having laid in aſhes, the barn and ſhop of Judge Bancker—the houſe and barn of Mr. William De Waal, and the barn and two barracks of Mr. Abraham Hoffman.

HALIFAX, FEB. 23.

It is ſaid, "that the intercourſe between this Province and the United States, hitherto authoriſed by proclamation, will be diſcontinued after the firſt of May next, unleſs ſome urgent neceſſity, occaſioned by the failure of crops, ſhould require the importation of Flour or Grain."

As the purpoſe of this ſtep, if taken, muſt be to encourage the *agriculture* and *commerce* of the province, we flatter ourſelves, that the exertions of the Farmer, and the liberality of the mercantile intereſt, will mutually co-operate to evince the propriety of the meaſure.

Should we thus prefer Canada, as the ſource from whence to ſupply our deficiencies in grain, &c. it would be but fair and juſt, were the Parliament of that Province to exonerate our trade from the *extra* duty under which it labours there.

NEW-ORLEANS, FEB. 15.

We mention with peculiar regret the unhappy fate of Mr. M. G. Lewis, brother of the late Mrs. Claiborne, who fell on Tueſday laſt, in a duel with Mr. Robert Sterry.

Mr. Lewis was a youth of amiable deportment and promiſing character. We have heard that the *dream* of FIDELIS, in our paper of Friday laſt, created the miſunderſtanding that has terminated ſo fatally. We have been at ſome pains to learn the circumſtances of the duel, and believe ourſelves correct in the following ſtatement:

Mr. L. with his friend called at our office for a knowledge of the author. Webeg. ged time to aſk approbation. Before we could make Mr Sterry's communica ion, it ſeems *Fidelis* became known through ſome other medium. A challenge then enſued from Mr. Lewis, which we have underſtood, left no means of conceſſion; it requiring no explanation, but immediate ſatisfaction for the outrage committed on his feelings.—It being accepted, the parties met, and were to wait the count 1, 2, 3, and at the ſucceeding word of fire, to fire. Mr. Lewis's piſtol flaſhed before the time, at the word three; and he therefore loſt his chance of fire. Mr. Sterry ſeeing this, immediately turned, and fired backward in the air. No offer of accommodation was, we believe, made, and the parties again fired nearly at the ſame moment, when Mr, Lewis received a ball which paſſed through his heart, and out at his left ſide. For a moment he continued his attitude, when caſting his eyes to his friend, as if conſcious of his wound, he could only utter, "I believe!" and fell a lifeleſs corpſe.

CHARLESTON, MARCH 16.

Extract of a letter, from J. Blakely, Eſq. Conſul of the United States, at St. Jago-de-Cuba, dated the 25th February, 1805, to James Simmons, Eſq. Collector of the Cuſtoms.

"Permit me through your politeneſs, to inform the Merchants of the U. States, that this port is now opened for American veſſels bringing flour and proviſions."

The ſame letter ſtates.

"During a month paſt, flour in this city has been from forty to ſixty dollars a barrel. 'Tis now ſaid, that two days more will finiſh the laſt barrel of flour of the beſt ſupplied baker in the city."

News from Cadiz....We have been favored with the peruſal of ſeveral late letters from Cadiz, written by one of the moſt eminent merchants of that place—from theſe letters we learn,

That, from the 23d of April to the 23d of December, 1804, there was imported into that port, 1,789,232 buſhels of wheat, and 55,854 barrels of flour.

That there was grain and flour enough in Cadiz to laſt till the firſt of May, beld by the Corporation of that place, which is bought by the bakers as they want it—

That notwithſtanding this great ſupply, it was expected the price would continue, in conſequence of the ſcarcity of the adjacent cities—The probability of this circumſtance was increaſed, as no grain was expected from the Mediterranean, or the Baltic, and becauſe none would come in from France, as the price in that country exceeded the ſum eſtabliſhed there for exportation. [*N. Y. Gazette.*]

To Correspondents.

The unknown friend, who lately sent us a file of London papers, will accept our thanks.

MARRIED,

At Claverack, on the 24th ult. by the Rev. Mr. Gepherd, Mr. JAMES LEGGERT, Jun. to Miss SOPHIA KITTLE, daughter of the late capt. John Kittle, of Kinderhook.

The Knell.

At Northampton, (Mass.) on Thursday the 7th ult. Mrs. SARAH STORRS, conſort of Mr. Nathan Storrs, and daughter of the Hon. Timothy Dwight, deceased.

Wreath.

FOR THE BALANCE.

THE CONTRAST....OR, WAR AND PEACE.

WHEN the sweet-smiling Moon rolls her orb through the sky,
And the white clouds are flying afar,
I rove
Through the grove,
While no danger is nigh,
And with pensiveness utter a heart-broken sigh,
As I think on the horrors of War.

O'er the earth, hostile armies, in battle, around
Spread destruction and carnage afar;
While blood,
Like a flood,
Flows with crimson the ground;
And the groans of the dying, unnumber'd, resound;
Oh! the merciless horrors of War!

Heav'n hasten the time when the battle shall cease,
And dread terror be banish'd afar;
When love
Like the dove
With the *emblem* of *Peace*,
Shall return to the Ark, and that wretchedness cease,
Which embitters the horrors of War.

Then the vulture, Despair, shall from Misery fly,
And no ill-omen'd grief-bearing star
Shall keep
Gentle sleep
From the fatherless eye,
Nor disturb the repose of the brave, with a sigh
For the wide-wasting horrors of War.

ALCANDER.

Law Intelligence.

FROM THE LONDON STAR.

COURT OF KING's BENCH, Nov. 27.

THE KING *vs.* G. LOWTHER, ESQ.

Mr. GIBBS moved for a criminal information againſt this Defendant, on an affidavit from Lord Radnor, William Eyre, Eſq. J. Batt, Eſq. and the Rev. J. Jacob, all of them Juſtices for the county of Wilts. It appeared by this affidavit, that a complaint had been made to theſe Magiſtrates by a man of the name of Sop, a laborer, that Mr. Lowther would not diſcharge his account. In conſequence of this circumſtance, a ſummons was iſſued in the uſual form, when the Defendant, inſtead of attending, according to the order of the Juſtices, ſent a letter to the clerical Magiſtrate, directed either from miſtake, or burleſque, J. Jacob, Eſq;

"Sir,—The bearer of this is a worthy farmer of the name of Grant. As a magiſtrate you ought not to have iſſued the ſummons to me, which I have heard of, but which had never been ſerved upon me. Whether you think it right or not to allow ſummonſes on the application of felons I will not determine; but this I know, had I been a Magiſtrate, I ſhould have thought myſelf bound to act from different principles than thoſe by which you were guided, when you gave this warrant, on the mere application of a country laborer. The meaſure is the more extraordinary, as the Bench of Magiſtrates, at the laſt meeting, ſeemed ſatisfied with my conduct.

(Signed) "G. L."

It ſeemed that this Sop had been employed in making a well; whether this Gentleman ſucceeded in extracting any liquid, or otherwiſe, from Sop, does not appear, but Sop could not draw from the well the produce of his honeſt induſtry. The Magiſtrates did not grant a ſecond ſummons, until after the enſuing Seſſions. The following letter was next ſent, directed to Doctor Batt, but if, from ridicule or error, is again doubtful;

"Doctor Batt,—I flattered myſelf that the explanation I gave before, regarding Sop, would have been ſatisfactory; and that from you, as Juſtices and Gentlemen, I ſhould not have been troubled with another ſummons. I am ſo much aſtoniſhed at this notice, that I am at a loſs to what to attribute it, whether to your want of knowledge of the duties as a Magiſtrate, or your deſign to give me a perſonal inſult. As to the ſummons, I ſhall pay no attention to it whatever, &c.

(Signed) "G. L."

Mr. GIBBS ſaid, that it appeared from the affidavit of Lord Radnor, and his Colleagues on the Bench, that they had no intention whatever to offend this Gentleman, but merely had in view the faithful diſcharge of their public duties. The Learned Counſel was proceeding to ſtate the ſerious injury the country would ſuſtain, if Magiſtrates were thus to be inſulted with impunity, when he was interrupted by the LORD CHIEF JUSTICE, who granted the Rule to ſhew cauſe, upon the grounds we have ſtated.

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